

INTERNAL CONTROL REVIEW

**PROTECTED SPECIES AND HABITAT CONSERVATION
HEADQUARTERS AND AK, NW, SW, SE, & NE REGIONS
MARINE MAMMAL EXEMPTION PROGRAM**

**U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE**

JULY, 1991

REFERENCES

1. The Marine Mammal Protection Act of 1972, As Amended By PL 100-711, November 23, 1988.
2. "Exemption for Commercial Fisheries", NOAA, NMFS Publication, April 1989.
3. Commercial Fisheries Exemption Registration Form, NOAA, NMFS.
4. Marine Mammal Log Form and Instructions, NOAA, NMFS.
5. Progress Reports of the MMPA Implementation Task Force Jan. 1989-current date.
6. 50 CFR Part 216, Regulations Governing the Taking of Marine Mammals Incidental to Commercial Fishing Operations; Advance Notice of Rulemaking and Proposed List of Fisheries. Federal Register Notice, Jan. 27, 1989
7. Taking of Marine Mammals Incidental to Commercial Fishing Operations; Interim Exemption for Commercial Fisheries. Federal Register Notice, April 20, 1989.
8. 50 CFR Part 229, The Taking of Marine Mammals Incidental to Commercial Fishing Operations; Interim Exemption for Commercial Fisheries; Proposed Rule. Federal Register Notice, June 19, 1989.
9. 50 CFR Part 216 et al., Taking of Marine Mammals Incidental to Commercial Fishing Operations; Interim Exemption for Commercial Fisheries; Interim Rule. Federal Register Notice, May 19, 1989.
10. 50 CFR Part 229, The Taking of Marine Mammals Incidental to Commercial Fishing Operations; Interim Exemption for Commercial Fisheries; Proposed Rule. Federal Register Notice, June 19, 1989.
11. 50 CFR Parts 204 and 229, Regulations Governing the Taking of Marine Mammals Incidental to Commercial Fishing Operations; Interim Exemption for Commercial Fisheries; Final Rule. Federal Register Notice, December 15, 1989.
12. Draft User's guide for the Marine Mammal Exemption Program (MMEP) prepared for the NMFS F/PR by ICF Information Technology, Inc. Fairfax, Va., December 31, 1990.
13. Memorandum of 9/5/89 from the AA for Fisheries to the Regional Directors, NMFS: Confidentiality Provisions Regarding MMPA Exemption Data.

14. Memorandum of 4/24/90 from the AA for Fisheries to the Regional and Science Directors, NMFS: Marine Mammal Exemption Program Management.

15. Six Reports generated by the MMEP Software Programs: 1. Exemption Reports 2. Owner's Log Reports 3. Print Exemption Certificates 4. Ad Hoc Query Reports 5. Mailing Label Generations 6. User Defined Reports / R&R.

16. MMEP Accounting System Documentation, prepared by NMFS, F/PR, 1991.

17. Cash Management Handbook for the Department of Commerce, Office of Finance and Federal Assistance, April 30, 1985

INTERNAL CONTROL REVIEW EXECUTIVE SUMMARY PROTECTED RESOURCES AND HABITAT CONSERVATION PROGRAM MARINE MAMMAL EXEMPTIONS

I. INTRODUCTION

Marine mammals are accidentally injured or killed during commercial fishing operations, are intentionally harassed, injured or killed to protect fishing gear or catch, and become entangled in discarded fishing gear. This taking of marine mammals incidental to commercial fishing operations is of great concern, especially where the marine mammal stocks are decreasing, threatened, or endangered or where little is known about them. Interactions between marine mammals and commercial fishermen may also result in significant economic loss to the fishermen in terms of damaged or lost fishing gear and reduced value of catch.

The Marine Mammal Protection Act (MMPA) of 1972 prohibited the taking of marine mammals incidental to commercial fishing unless authorized by a general incidental take permit or a small take exemption. In 1988 the MMPA was amended to replace these provisions until October, 1993. Under these amendments, all fisheries are placed in one of three categories, based on the relative frequency of incidental taking of marine mammals.

Vessels fishing in Category I or Category II fisheries must register with the National Marine Fisheries Service (NMFS), pay an annual fee of \$30, obtain an exemption certificate, regularly compile information about marine mammal incidental takings in a log, and annually file this report. Vessels in Category III do not have to register with the NMFS, but must file a report concerning any lethal taking of marine mammals.

During the five year period, incidental taking of marine mammals by commercial fisheries will be allowed with a few limitations. More reliable information will be collected that can be used with other data to devise a new long term program to manage these interactions.

Marine mammal exemptions are administered by the NMFS through its Office of Protected Resources in Headquarters and each of five Regions. A single Nationwide database enables program managers in Headquarters and the Regions to obtain current information about exemption processing and produce analytical reports about marine mammal interactions. Each Region has assigned staff to receive and enter registration and log data into the database, and collect fees. Headquarters provides policy oversight, supports the Regions, and manages the database.

In 1990, NMFS collected registration information and fees, issued exemption certificates, and compiled vessel owner log data from about 16,000 fishermen in 38 different fisheries. These activities (including the placement of observers in all Category I fisheries) have a budget of about \$8 million and an assigned staff of 8 FTE's, with some contract support for data entry and computer software development in Headquarters.

The Assistant Administrator for Fisheries and the Director, Office of Protected Resources recommended that an Internal Control Review (ICR) be prepared of NMFS marine mammal exemption activities. The objectives of an ICR are to (1) define the existing management process within an activity (2) define the existing management control system (3) determine if the controls are actually being used, and (4) identify any areas of weakness or overcontrol which require management's attention.

II. SCOPE OF THE REVIEW

Identification of Event Cycles and Selection of ICR Focus

Each of the five NMFS Regions and the Headquarters process exemption certificates in their areas, receive and deposit fees collected from local fishermen, and enter vessel owner log data into the nationwide database. These three Event Cycles (Exemption Processing, Fee Administration, and Data Management) comprise a significant portion of the Marine Mammal Exemption Program (MMEP), and are administered by comparable staffs within the same Assessable Unit. They involve interacting directly with thousands of fishermen throughout the U.S. who must obtain permits to pursue their livelihood, handling about \$.5 million annually in fees, and

collecting scientific data which is critical to the success of the MMPA. Accordingly they were selected for review in this ICR. (See Appendix A.) Associated activities, such as enforcement of regulations, deployment of observers, and commercial fisheries gear development were not selected for review because they are outside the Assessable Unit.

Selection of the ICR Team

The Assessable Unit (AU) Manager, (the Chief of the Protected Species Management Division), and the Regional Directors selected an ICR Team consisting of representatives of each of the five Regions and Headquarters, and the ICR Coordinator in the Policy and Coordination Office. (See Appendix B.)

III. METHODOLOGY

Detailed Planning of the ICR

The ICR Team prepared a detailed work plan for completing the ICR, and this was approved by the AU Manager. (See Appendix C.)

Documentation

The ICR Team reviewed written materials describing the MMEP, including: enabling legislation; organization charts; position descriptions; current and past budgets; planning and related documents; explanatory brochures for fishermen; registration forms, log (reporting) forms; Headquarters progress reports; NMFS Headquarters guidance memoranda to the Regions; Federal Register Notices and associated regulations; software users' instructions; MMEP reports and the National database; accounting system documentation; and Departmental guidance on cash management. (See Appendix D.) This helped to judge the accuracy and relevance of written policies and procedures, and to identify important control techniques. In addition, employees who were responsible for such day to day operations as data entry and financial accounting were interviewed.

The Regional representatives on the ICR Team described, in writing, how each of the three Event Cycles worked in their own Regions. A narrative

and flow chart were then prepared for the MMEP. (See Appendix E and Appendix F.) They represent in words and symbols the sequence of actions taken in the Regions and Headquarters. Their accuracy was confirmed by the operational managers themselves.

Analysis of the General Control Environment

The ICR Team analyzed the general control environment of the three event cycles. (See Appendix G.) The organization structure of the MMEP is decentralized, although the Headquarters provides policy guidance to the Regions and prescribes the operating procedures for the National database. This accommodates local fishermen because they can deal directly and quickly with Regional staff who are more familiar with their needs.

However, decentralization has some potential control problems as well. Regional staff may be assigned additional programmatic responsibilities by the Regional Director, making it difficult for them to complete MMEP duties during peak workloads, especially near the end of the year when most applications and logs are processed. Headquarters must obtain the concurrence of the AA for Fisheries in order to make unusual or nonroutine assignments to the Regions, which can also result in some delays. Because some area MMEP offices are staffed by only one person, they may lack direct daily supervision and "separation of duties".

Determination of Risks

Once the MMEP activities had been described in each event cycle (beginning with the establishment of the program in the first year and ending with the analysis of log data), the ICR Team sequentially identified risks (undesirable events or situations) which might occur. (See Appendix H.) The AU Manager approved the following risks for review by Event Cycle:

EXEMPTION PROCESSING

- Registration forms submitted by fishermen may be incomplete or inaccurate.
- Data on registration forms may be entered into the MMEP database

inaccurately.

- Registration data may not be processed on time.
- If certificates sent to fishermen become lost in the mail, registration may not be accomplished.

FEE ADMINISTRATION

- Defective checks may be accepted for payment.
- A fisherman's check may not be credited and deposited properly and promptly.
- Checks may be lost or misappropriated.
- Refunds may not be properly made.

DATA MANAGEMENT

- Fishing logs may be incomplete or inaccurate.
- Fishing log data may not be processed on time.
- Confidential data may be disclosed.

Determination of Control Objectives

NMFS must ensure that exemptions are processed, fees are administered, and data is managed properly and on time.

The ICR Team assigned to each of these risks a corresponding and opposite control objective, which is a condition which the AU Manager wants to occur. (See Appendix H.)

Determination of Existing Control Techniques

The AU Manager and the ICR Team identified control techniques associated

with each of these control objectives. Control techniques are safeguards which managers routinely perform to help ensure that waste, fraud, abuse, and inefficiency are eliminated. This was accomplished for each event cycle by interviewing various staff, reviewing written policies and procedures, and referring to the specific management actions identified in the narratives and flow charts. (See Appendix H.)

Testing of Control Techniques

The ICR Team formally determined if each control technique was being used and achieving its objective, by preparing and completing a standard questionnaire. (See Appendix I.) It included sampling application forms, certificates, logs, checks, deposit slips, database reports, etc., interviewing Program Managers and MMEP staff, or direct observation. (See Appendix K.) The tests were conducted concurrently by ICR Team members in each of the five Regions and in Headquarters in Silver Spring, MD. Enough tests were performed to be reasonably confident that the findings were accurate, and corresponding with the importance of the technique. The results of each test were then recorded.

IV. FINDINGS AND CONCLUSIONS

Evaluation of Internal Controls

The ICR Teams examined the results of each test to determine if the control techniques were meeting the associated control objective, and prepared findings and conclusions. (See Appendix J.) The AU Manager then determined if the control system complied with the six specific standards established by the General Accounting Office (GAO) which are:

DOCUMENTATION

Completion of this ICR will meet some of the requirements for documentation of these three event cycles: risks, control objectives, control techniques, and work-flow procedures are now identified and in writing. The regulations governing the MMEP are completely and fully described in Federal Register Notices, as well as in instructional material sent to fishermen. Memoranda from the AA for Fisheries and the Office

Director provides policy guidance to the Regions. Written guidance on disclosure of confidential data is available in Headquarters and the Regions. Software documentation is available in Headquarters; however, it may not always be current due to the evolution of the software and may not be distributed to the Regions as needed. Documentation of financial controls is not extensive, and may vary by Region.

RECORDS: RECORDING OF TRANSACTIONS

The MMEP database provides up-to-date written and electronic records on all aspects of the issuance of an exemption certificate, from authorization to final classification. This database will be used for future analysis of marine mammal interactions. The records are generally arranged in such a way as to permit easy access for review/audit or for report writing. However, it would be useful to control the processing of applications and payments more thoroughly and consistently in Headquarters and the Regions in order to insure timeliness, accuracy, and completeness.

AUTHORIZATION: EXECUTION OF TRANSACTIONS

MMEP responsibilities are often assigned to Regional staff in addition to their existing work. Regional staff are administered by the Regional Directors rather than by the Headquarters (Protected Species Management Division). Routine authorizations are already described in written directives and memos from the AA for Fisheries. To make nonroutine or special assignments (such as this ICR), Headquarters must obtain the written authorization of the AA for Fisheries. This preserves the Regional lines of authority, but complicates committing personnel and funds, and may delay carrying out time-sensitive work assignments.

STRUCTURE: SEPARATION OF DUTIES

Although it would be desirable to separate key duties in authorizing, processing, recording, and reviewing transactions among individuals, this is often impractical because there may be as few as one MMEP person in a Region. For example, one person in a Region may process deposit slips, record the information, and issue an exemption without any direct, daily

supervision.

SUPERVISION

The Program Manager in Headquarters employs specialized software to spot check the database and correct obvious and simple errors. This is the primary method for reviewing the data input by staff in the Regions. Contractor personnel who enter data into the database are supervised continuously and their work is approved at critical points by the Program Manager in Headquarters. The Regions make arrangements to enter log data originating in their geographic areas, but this may not be accomplished in a timely or consistent manner resulting in some loss in effectiveness.

SECURITY: ACCESS TO RESOURCES

Deposit slips are not always kept in a locked drawer in the Regions, although checks (which could be misappropriated) always are. Some Regions use overnight carriers which supply a return receipt to deliver checks to the bank, while other Regions with less frequent deposits do not. A hierarchal password routine in the software controls access to confidential data; however, not all users have been assigned their own individual passwords and some obsolete passwords remain in effect.

V. RECOMMENDATIONS

Reporting of Internal Controls

The ICR Team made recommendations to improve the internal control system, including a Responsible Official and Completion Date for each. (See Appendix K.) When these recommendations are implemented, there will be "reasonable assurance" (as intended by the Federal Managers' Financial Integrity Act) that the systems of internal controls are operating as intended. They were as follows by Event Cycle:

EXEMPTION PROCESSING

- The computer program should be modified to incorporate validation

routines for the vessel identification fields, and any other potential entry errors as appropriate.

Responsible Official: Headquarters Program Manager

Completion Date: October, 1991

■ Beginning in CY 1992, the Headquarters and all Regional staff should always annotate the application form to indicate the receipt of the check and the receipt of a vessel owner log for renewals. This should be accomplished using a rubber stamp with the date and appropriate boxes to be checked off (i.e new, renew, check OK, logs OK).

Responsible Official: Headquarters and Regional Program Managers

Completion Date: December, 1991

■ All Program Managers (Regions and Headquarters) should become familiar with the data check software routines and employ them each day that data is entered.

Responsible Official: Headquarters and Regional Program Managers

Completion Date: August, 1991

■ The registration forms in the database should all show the "date issued".

Responsible Official: Headquarters and Regional Program Managers

Completion Date: July, 1991

■ Headquarters and each Region should begin to stamp each form with the date received, even the "walk-ins", if they are not already doing so.

Responsible Official: Headquarters and Regional Program Managers

Completion Date: July, 1991

■ Headquarters and the Regions should begin to note on the application any correspondence between the NMFS and the fisherman which might prolong the registration process.

Responsible Official: Headquarters and Regional Program Managers

Completion Date: July, 1991

■ During periods of high volume processing, forms should be arranged by date so that the first forms received can be processed first.

Responsible Official: Headquarters and Regional Program Managers

Completion Date: July, 1991

■ When exemption certificates are returned to NMFS, the MMEP database and original application files should be reviewed, and an attempt should be made to contact the owner by telephone, in order to determine if an alternate address is available.

Responsible Official: Headquarters and Regional Program Managers

Completion Date: July, 1991

FEE ADMINISTRATION

■ The MMEP database should be modified to incorporate the returned checks database. (Both of these databases are currently in dBase.) This would enable renewal applications to be scanned for defective checks electronically rather than manually (visually.) The Regions would no longer be required to manually maintain or employ a Returned Checks List, since this would be an automatic routine within the software.

Responsible Official: Headquarters Program Manager

Completion Date: October, 1991

■ All financial transactions should be conducted in accordance with the "Cash Management Handbook".

Responsible Official: Headquarters and Regional Program Managers

Completion Date: July, 1991

■ Deposit slips should be initialed by someone other than the preparer to verify that they are accurate in each Region and in Headquarters.

Responsible Official: Headquarters and Regional Program Managers

Completion Date: July, 1991

■ Deposit slips should be kept in a secure location in each Region and in Headquarters.

Responsible Official: Headquarters and Regional Program Managers

Completion Date: July, 1991

■ The Regions and Headquarters should establish a mechanism to reconcile money collected and exemptions issued each month, and document this process in a log.

Responsible Official: Headquarters and Regional Program Managers
Completion Date: July, 1991

■ Each Region should keep checks in a secure location until deposit is accomplished (as prescribed by the Cash Management Handbook.)

Responsible Official: Headquarters and Regional Program Managers
Completion Date: July, 1991

■ Each Region and Headquarters should return any incomplete application as well as the accompanying check to the applicant along with a cover memo indicating the omission (i.e. a check received with an incomplete application should not be held or cashed.)

Responsible Official: Headquarters and Regional Program Managers
Completion Date: July, 1991

■ Each Region should use a mail service which supplies a return receipt to deliver checks to the bank.

Responsible Official: Headquarters and Regional Program Managers
Completion Date: July, 1991

DATA MANAGEMENT

■ Additional notification should be routinely given to fishermen who have not reported for all fisheries in which they registered. This should explain that fisheries for which no reports have been received have not been renewed for the current year, and that these reports must be received if renewal is desired (even if the vessel did not participate in the fishery).

Responsible Official: Regional Program Managers
Completion Date: July, 1991

■ The User's Guide for the MMEP should be made available to each data entry clerk for convenient reference.

Responsible Official: Headquarters Program Manager
Completion Date: October, 1991

■ To help eliminate erroneous entries in the field for marine mammals involved/injured/taken: (1) the computer program should be modified to

limit this field to three digit numbers; (2) the "check data routine" should be modified to flag records that indicate a take exceeding 50 marine mammals per record.

Responsible Official: Headquarters Program Manager

Completion Date: October, 1991

■ All Regional staff should attach the envelope in which the logs were received to the logs, (thereby tracing logs with incomplete identification back to the vessel owner through the return address.)

Responsible Official: Headquarters and Regional Program Managers

Completion Date: July, 1991

■ The Systems Administrator should consult with the Program Managers in the Regions to insure that all current users have been assigned individual passwords and appropriate level of access, and that passwords for persons no longer using the system have been deleted. This should then be documented.

Responsible Official: Headquarters Program Manager

Completion Date: July, 1991